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Patent Group
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MAY 24 2004

In re Application of:
Gerhard Kienzler et al.
Serial No.: 09/831,289
Filed: September 14, 2001
Attorney Docket No.: WEM-05601

DECISION ON PETITION TO
WITHDRAW THE HOLDING
OF ABANDONMENT

This is a decision on the petition under 37 C.F.R. § 1.181 filed November 3, 2003 to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to pay the issue fee within the statutory period of three months from the mailing date of the notice of allowance. The Notice of Allowability and the Notice of Allowance and Issue Fee(s) Due (hereinafter Notice of Allowance) were both mailed on May 21, 2003. Although no Notice of Abandonment has been mailed, this application became abandoned by operation of law when the issue fee was not paid within the three month statutory period set in the Notice of Allowance.

Petitioner asserts that the issue fee was not timely paid because the Notice of Allowance was mailed to an incorrect address. To support this assertion, petitioner provides a copy of a letter dated August 23, 2002 that was apparently mailed to the U.S. Patent and Trademark Office (hereinafter USPTO). The letter from an attorney of record in the present application included a list of approximately 250 applications that were requested to be associated with Customer No. 26339. The present application was included on the list.

Although petitioner provides no evidence that the letter was ever received at the USPTO, a check of a number of the applications on the list indicates that they were in fact associated with Customer No. 26339 on September 20, 2002. This fact is being accepted as providing sufficient evidence that the letter was mailed and received at the USPTO. Furthermore, as indicated in the petition, the Notice of Allowance mailed to the applicant was in fact returned to the USPTO as being undelivered by the U.S. Postal Service.

Thus, it is clear that the Notice of Allowability and the Notice of Allowance were mailed to an incorrect address. As such, it is appropriate to withdraw the holding of abandonment, to

change the address associated with the application and to remail the Notice of Allowability and the Notice of Allowance.

The holding of abandonment is hereby withdrawn and the correspondence address of the present application has been changed to the address associated with Customer No. 26339.

This application is being forwarded to the Technical Support Staff of Technology Center 2800 for the remailing of the Notice of Allowability and a new Notice of Allowance with a new three (3) month time period for paying the requisite Issue Fee.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



Richard K. Seidel, Director
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